

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ANTHONY VARNER, ET UX.,

Plaintiffs,

V.

**EQUIFIRST CORPORATION, and
WILSON & ASSOCIATES, P.L.L.C.,**

Defendants,

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) **Civil Action No.** _____
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COMPLAINT

COMES NOW Plaintiffs' Anthony Varner, et ux., PRO SE and files this their Complaint and respectfully shows the Court as follows:

JURISDICTION AND VENUE

Plaintiff's are citizens of the State of Tennessee and jurisdiction is founded on 28 U.S.C.A. § 1332(a)(1). The Citizenship of the parties is diverse and the amount in controversy exceeds the jurisdiction requirement of \$75,000 exclusive of interest and costs, and upon 28 U.S.C.A. § 1332, this being a civil action arising under the laws of the United

States for violations of the Truth-In-Lending Act (TILA) 15 U.S.C.A. § § 1601 *et seq.*, Real Estate Settlement Procedures Act (RESPA) 12 U.S.C.A. § 2605(e), Regulation X at 24 CFR § 3500 *et seq.*, Fair Debt Collection Practices Act (FDCPA) 15 U.S.C.A. § 1692 and the Fair Credit Reporting Act (FCRA) 15 U.S.C.A. § 1681(a) *et seq.*

II.

Defendant EquiFirst Corporation (Lender) is a corporation organized and existing under the laws of the State of North Carolina and not authorized to do business in the State of Tennessee. Their principle place of business is 500 Forest Point Circle Charlotte, NC 28273. They have no designated Agent for Service of process.

Defendant Wilson & Associates, P.L.L.C., whose address is 1521 Merrill Drive, Suite D-220, Little Rock, Arkansas 72211, is acting in its capacity as Substitute Trustee to conduct sale of Plaintiffs' Residence and whose Agent for Service of Process is CT Corp. System, 800 South Gay Street, Suite 2021, Knoxville, Tennessee 37929.

III.

Venue is proper under 28 U.S.C.A. § 1391(b)(2) since the claim arose in this judicial district.

CAUSE OF ACTION

On August 26, 2005 Plaintiffs signed a Promissory Note and Deed of Trust with Defendant EquiFirst Corporation for the purchase of the Residence located at 4512 Jonstone Lane, Arlington, Shelby County, Tennessee for the amount of \$248,000.00.

IV.

Notice was received by Plaintiffs on November 19, 2010 from Defendant, Wilson & Associates, P.L.L.C., Substitute Trustee informing them of Defendant's Right to Foreclose on their property within 60 days from the dates first mentioned.

V.

Plaintiffs allege that due to the fraud committed against them at closing (no money loaned) by Defendant EquiFirst Corporation, the Defendant Wilson & Associates, P.L.L.C., Substitute Trustee lacks authority to conduct or attempt to conduct a sale of their residence.

VI.

Defendant, Wilson & Associates, P.L.L.C., Substitute Trustee is not the lawful owner and holder in due course of Plaintiffs' original Promissory Note and Deed of Trust since no record in the Shelby County Register's Office lists them as assignee of the original mortgagee (Defendant EquiFirst Corporation).

VII.

Defendant Wilson & Associates, P.L.L.C., Substitute Trustee further was not in physical possession of the original note and mortgage at the time notice was given and also lacks authority to conduct a Substitute Trustee's sale of Plaintiffs' property.

VIII.


Plaintiffs will suffer irreparable injury if Defendant Wilson & Associates, P.L.L.C., Substitute Trustee is allowed to proceed with sale of their residence on Friday, December 10, 2010.

WHEREFORE PREMISES CONSIDERED, Plaintiffs pray:

1. That a Temporary Restraining Order/Injunction be issued ex parte to keep them in their home until this litigation is resolved;
2. For the right to amend this Complaint after discovery and additional information is uncovered;
3. That a copy of this suit be served upon Defendants and they be required to answer herein or suffer a judgment by default;
4. Compensatory damages in an amount to be determined at trial;
5. Court cost and for such other relief as this Court deems just and proper.

Respectfully submitted,



ANTHONY VARNER

STEPHANIE A. VARNER
PRO SE
4512 JON STONE LANE
ARLINGTON, TN 38002
(901) 826-2837

Dated: December 6th, 2010

JUDGE'S FIAT

TO THE CLERK OF THIS COURT;

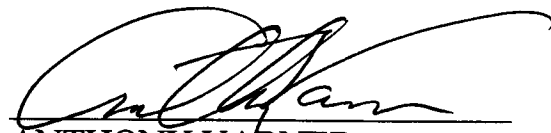

Issue the Temporary Restraining Order prayed for in this Complaint upon
bond being given in the amount of \$ _____ and issued Notice setting
this matter for hearing on _____ the
_____ day of _____, 2010 at _____ o'clock _____ m.

U.S. DISTRICT COURT JUDGE

ENTERED: _____

STATE OF TENNESSEE
COUNTY OF SHELBY

I/We, Anthony Varner and Stephanie A. Varner, hereby state under oath that
We have read the facts and allegations of the Complaint filed herein, and the facts
and matters set forth are true and correct to the best of our knowledge, information
and belief.


ANTHONY VARNER

STEPHANIE A. VARNER

Sworn to and subscribed to before me the undersigned Notary Public this 6th
day of December, 2010.

My Commission Expires:

My Commission Expires Aug. 20, 2011

